COMMONWEALTH OF MASSACHUSETTS
DEPARTMENT OF TELECOMMUNICATIONS AND ENERGY

Massachusetts Electric Company Nantucket Electric Company	)	D.T.E. 01-71B

REPLY BRIEF OF MASSACHUSETTS ELECTRIC COMPANY AND NANTUCKET ELECTRIC COMPANY

I. INTRODUCTION

On Monday, February 11, 2002, Massachusetts Electric Company and Nantucket Electric Company (collectively "Company" or "Mass. Electric") filed an initial brief in this proceeding. In its initial brief, the Company set forth its proposal for determining the service quality performance of the Company from the period May 1, 2000 through December 2009 ("Comprehensive Resolution"). Specifically, the Company proposed that it be judged on the service quality plan ("Original Plan") contained in the rate plan settlement approved by the Department in D.T.E. 99-47 from May 1, 2000 through the end of 2000; the service quality standards approved by the Department for Mass. Electric in D.T.E. 99-84 ("Revised Compliance Plan") for 2001, and the Company's proposed service quality plan for 2002 through 2009 ("Alternative Proposal"). As part of the Comprehensive Resolution, the Company stated if the Department granted Mass. Electric's proposed use of the various service quality plans, Mass. Electric would not exercise its right under the Rate Plan Settlement to seek recovery of the differences between what it would have earned as an incentive or received as a penalty under the Original Plan and Revised Compliance Plan.

On Wednesday, February 13, 2002, the Attorney General filed its initial brief. The Attorney General supported evaluating the Company's 2000 performance according to the Rate Plan Settlement and Original Plan, the Company's 2001 performance according to the Revised Compliance Plan, and the Alternative Plan for 2002 and beyond. Attorney General Initial Brief pp. 8-9. Thus, the Company and the Attorney General agree on which service quality plan should apply to the Company's performance from May 1, 2000 through 2009.

The Attorney General brought up three additional issues which the Company will address in this reply brief. First, the Attorney General stated that it was unclear from the record what the Company proposes to use as the original trigger point for historical data in the Alternative Plan. Attorney General Brief, p. 5 footnote 8. In Section II.A of this reply brief, the Company will set forth how the record indicates that the Company proposes to use historical data through 2001 for the original benchmarks in the Alternative Plan. Second, the Attorney General recommended that the Department further evaluate service quality data for all companies prior to assessing specific penalties or incentives to ensure data accuracy and consistency, either by an independent data review or by reopening the evidentiary hearings. Attorney General Initial Brief, pp. 10-12. In Section II.B of this reply brief, the Company supports the Attorney General's goal of accurate measurements, but believes that an independent data review will be costly, slow, and not produce sufficient benefits to justify the expense. If the Department believes that it needs to investigate Mass. Electric's data accuracy further, however, the Company does not oppose reopening the evidentiary hearing. Finally, the Attorney General noted what it considered problems with the Company's responses to discovery. Attorney General Initial Brief p. 10. In Section II.C of this

reply brief, the Company will discuss how it responded to all discovery requests with the goals of timeliness and provision of thorough and accurate information.

II. ARGUMENT

A. The record is clear that the Company proposes to use historical data through 2001 for the original benchmarks in the Alternative Plan.

The Attorney General stated that it was unclear from the record what the Company proposes to use as the original trigger point for historical data in the Alternative Plan. Attorney General Brief, p. 5 footnote 8. The Attorney General concluded that because the Company used historical data through 2000 to establish the original penalty trigger in Ex. DTE 1-4, this was the Company's proposal. Id.

The record is clear, however, that the Company proposes to use historical data through 2001 for the original benchmarks. As stated in the Alternative Plan, "[e]ach year, the historical average and standard deviation for benchmarking will be based on the ten most recent years' worth of data for the Company." Exhibit MEC-1, p. 37 (Section I.C of the Alternative Plan). Accordingly, in response to the Department's information requests seeking hypothetical results for 2002 based on the various service quality plans, the Company used historical data through 2001 for historical benchmarks. Exhibits DTE 1-10, pp. 50-65, DTE 1-11, pp. 50-65, DTE 1-12, pp. 50-65.

In Exhibit DTE 1-4, the Department had asked the Company for hypothetical results for the year 2001 under the various service quality plans. The Company did not include the year in

question, 2001, as part of its historical data to judge the year, and thus used data through 2000.

B. An independent review of the Company's service quality data will be costly and not provide benefits commensurate with the cost.

The Attorney General recommends that the Department further evaluate the service quality data for all companies prior to assessing the specific penalties or incentives to ensure data accuracy and consistency, either by an independent data review or by reopening the evidentiary hearings. Attorney General Initial Brief, pp. 10-12. The Company agrees with the Attorney General that it is important that companies use accurate historical statistics and report their annual performance clearly. The Company itself updated Exhibits DTE 1-3, DTE 1-4, and AG 1-1 (as discussed in more detail in Section II.C below) in order to make sure that the information before the Department was as accurate as possible. If the Department believes that it needs to investigate Mass. Electric's data accuracy further, the Company does not oppose reopening the evidentiary hearing in order to give the parties an opportunity to question Company witnesses regarding its revised responses in Exhibits DTE 1-3, 1-4, and AG 1-1. This would be cost-effective and swift. On the other hand, the cost of an independent review would not produce benefits that could not be obtained through re-opening the evidentiary hearing. In addition, it would take far more time.

The Company believes that an independent review of its data is not warranted as a on-going requirement in the future, either. In proceedings before the Department regarding other important quantitative matters, including cost of service and rate reconciliations, the Department

and other parties have not used independent audits, but have relied on discovery and cross examinations during evidentiary hearings, which has worked well.[1] This proceeding, too, illustrates that discovery and cross examination works well.

As the pre-filed testimony of Mark Sorgman and James Bouford set forth, the Company has been tracking and measuring its performance over time. Exhibit MEC-1, pp. 144-150, 153, 156-161. The Company reported its results and incentive and penalty calculations in the prefiled testimony, and recalculated them in response to cross examination and record requests. Exhibits MEC-1, DTE 1-3, DTE 1-4, and AG 1-1. When the Company recalculated the incentive due it under the Original Plan in 2000 and the penalty it owes under the Revised Compliance Plan in 2001, the Company lowered the incentive for 2000 and increased the 2001 penalty, as the following table illustrates:

Year	Original Calculation	Revised Calculation
2000	$3,675,000 incentive	$3,506,000 incentive
2001	$5,087,403 penalty	$5,631,665 penalty
Difference	$1,412,403 penalty	$2,125,665 penalty

Exhibits Revised DTE 1-3 and 1-4. These recalculated amounts increase Mass. Electric's overall

[1]The Company notes that even in proceedings regarding records which have been independently audited, such as the Company's books of account in cost of service proceedings, the Department holds evidentiary hearings where it and other intervenors do extensive cross examination in order to arrive at the most accurate understanding of the data. An independent audit does not, by itself, give interested parties the assurance that cross examination can.

penalty. That Mass. Electric refiled its responses to these information requests is evidence that (1) the Company is attempting to find the most accurate results possible and (2) the adjudicatory process worked well. Doing an independent evaluation would add time and expense without a corresponding increase in value.

C. Mass. Electric has responded to all discovery requests with the goals of timeliness and provision of thorough and accurate information.

The Attorney General stated that the Company filed "its responses to record requests on February 5, 2002, two days after the deadline for filing responses to record requests." Attorney General Initial Brief, p. 10. In fact, discovery was due on Monday, February 4, 2002 and the Company submitted the majority of its responses on time. See Company filing dated February 4, 2002. It submitted all but one remaining response the following day. See Company filing dated February 5, 2002. The Company hand delivered both of these filings to the Attorney General. The Company submitted one response two days late, on February 6, 2002, and sent an electronic copy to the Attorney General that day. This was a response to a Department record request, DTE 1-13, which asked whether any other states in the nation allowed incentives for superior performance, and did not concern Mass. Electric itself. See Company filing dated February 6, 2002.

In addition, as the Attorney General noted, "[t]he preparation of those responses prompted the Company to revise certain of its responses to data requests previously submitted." Id. On February 5, 2002, the Company did resubmit its response to the information requests

marked as exhibits DTE 1-3, DTE 1-4, and AG 1-1. As the Company prepared its responses to the record requests, it appeared to the Company that the most effective and transparent way to put together all of the piecemeal information contained in the responses to the record requests was to revise the responses in those exhibits. It is true that the Company did not submit a motion for the Department to enter the exhibits into evidence, but if the Department believes that one is required, the Company moves that the Department put the Company's revised responses to information requests DTE 1-3, DTE 1-4, and AG 1-1 into evidence. For good cause, the Company points out that they contain data brought out as a result of the record requests made at the evidentiary hearing, and therefore correct the previous responses.

The Company does not understand how the timing of the filing of the record requests has harmed the Attorney General. In footnote 17 of the Attorney General's Initial Brief, the Attorney General states, "Because the Company filed corrected penalties and incentives late, the Attorney General did not have adequate opportunity to question Company witnesses regarding the corrections or sufficient time to analyze whether other data contain similar problems and should be revised." The Company filed most responses on time, all but one remaining one day late, and one about incentive plans in other states, DTE 1-13, two days late. The Attorney General requested a two day extension to file its brief which the Company supported and the Department approved. Thus, at worst, the Attorney General had the same amount of time to review the responses, and for many of them, additional time. As these were record requests that arose in the evidentiary hearing and revised responses to information requests based on the information contained in the record requests, it is not clear when the Attorney General would have questioned

Company witnesses.

III. CONCLUSION

For the reasons set forth in the Company's Initial Brief, the Company respectfully requests that the Department judge the Company's service quality pursuant to the Original Plan in 2000, the Revised Compliance Plan in 2001, and the Alternative Proposal in 2002 and beyond.

Respectfully submitted,

MASSACHUSETTS ELECTRIC COMPANY
NANTUCKET ELECTRIC COMPANY
By their attorney,

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